IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.23 OF 2007
IN
FIRST APPEAL NO.59 OF 2007

The State of Maharashtra ...Applicant

vs.

Rama Nama Mundkar ...Respondent

Mr.A.R.Patil A.G.P. for State
Mr.S.S.Punde for the Respondent.

CORAM: A.S.OKA, J.
DATE : JANUARY 22,2007.

P.C.:

1. Rule. Respondent waives service. Taken up for hearing forthwith.

2. The challenge in the First Appeal is to the Judgment and Award passed by the Trial Court under section 18 of the Land Acquisition Act, 1894. The reference relates to the acquisition of land at village Wadghar, Taluka Panvel, District Raigad which was notified for acquisition under section 4 of the said Act of 1894 on 3rd February 1970. The purpose of the acquisition of land was development of satellite city of Navi Mumbai. The Reference court has awarded the market value of Rs.15/- per sq.meter.

3. My attention has been invited to the decision of a Division Bench of this Court dated 3rd July 2001 in First Appeal No.758 of 1988 in case of Indian Standard Metal Co.Ltd.

Vs. Special Land Acquisition Officer. The Division Bench was dealing with the Appeal preferred by the claimant for challenging the Award made under section 18 of the said Act of 1894 in respect of the land admeasuring 2,13,150 sq.meters situated at village Wadghar in Taluka Panvel, District Raigad. The said land was notified for acquisition under section 4 of the said Act of 1894 on 3rd February 1970 for the purpose of development of satellite city of Navi Mumbai.

4. The Division Bench came to the conclusion that the market value of the land on the relevant date was Rs.12.50 per sq.meter. The Division Bench directed that considering the area of the land, 20% of the market value shall be deducted on account of development charges. Thus, in effect the market value fixed by the Division Bench of this Court is Rs.10/- per sq.meter. The decision of the Division Bench has attained finality. Therefore, unconditional stay cannot be granted. The Applicant will have to deposit entire decretal amount and 50% of the said amount will have to be permitted to be withdrawn by the Respondent without furnishing security. Remaining 50% of the amount can be allowed to be withdrawn on furnishing security to the satisfaction of the Reference Court.

5. Hence, Civil Application is disposed of by passing the following order :

i) There will be interim relief in terms of prayer clauses (b) and (c) subject to condition of the Applicant depositing with the Reference Court the entire amount due and payable under the impugned Judgment and Award within a period of twelve weeks from today. If the amount is not deposited, stay granted will stand vacated without further reference to the court.

ii) If the entire decretal amount is deposited by the Applicant, the Reference Court will permit the Respondent to withdraw 50% of the amount without any security. It is made clear that withdrawal of the amount by the Respondent will be subject to final outcome of the Appeal.

iii) The Respondent will be entitled to withdraw remaining 50% of the compensation amount subject to furnishing security for the said amount to the satisfaction of the Reference Court. The Applicant will be heard before accepting the security. If the Respondent fails to furnish adequate security within a period of six months from the date of deposit of the amount by the Applicant, the Reference court will invest the balance amount in fixed deposit in any nationalised bank initially for a period of three years and thereafter the fixed deposit shall be renewed on yearly basis till the final disposal of the Appeal.

. No order as to costs.

JUDGE